

# EXHIBIT 35

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

NIKE, INC.

Plaintiff,

vs.

STOCKX LLC,

Defendants.

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) No.

) 1:22-cv-00983-VEC

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The videotaped deposition of

KARI KAMMEL

taken before JO ANN LOSOYA, CSR, RPR, CRR, pursuant  
to the provisions to the taking of depositions at  
444 West Lake Street, Chicago, Illinois commencing  
at 9:45 a.m. on July 18, 2023.

1       PRESENT:

2  
3               DLA PIPER LLP  
4               TAMAR DUVDEVANI  
5               MARC MILLER  
6               1251 Avenue of the Americas  
7               New York, New York 10020  
8               tamar.duvdevani@dlapiper.com  
9               marc.miller@dlapiper.com  
10              Appeared on behalf of Plaintiff.

11              DEBEVOISE & PLIMPTON LLP  
12              MEGAN K. BANNIGAN  
13              KATHRYN SABA  
14              919 Third Avenue  
15              New York, New York 10022  
16              mkbannigan@debevoise.com  
17              ksaba@debevoise.com  
18              Appeared on behalf of Defendants.

19       ALSO PRESENT:

20              KIM VAN VOORHIS,  
21              Nike, Inc.

22       VIDEOGRAPHER: Milo Savich  
23       STENOGRAPHICALLY REPORTED BY:  
24       JO ANN LOSOYA, CSR, RPR, CRR  
25       LICENSE #: 084-002437



1 Q. When did that occur?

2 A. So I want to say it was early fall  
3 of 2019.

4 Q. Who invited you?

5 A. I don't remember. My director was the  
6 one who received the invitation. At the time I was  
7 an assistant director. So myself and another A-CAPP  
8 Center employee went out to do the training.

9 Q. What kind of training did you do?

10 A. Again, it was about the A-CAPP Center and  
11 what we do as far as research, education, and  
12 outreach, and then current trends in counterfeiting  
13 that we see from our research and our work with  
14 other brands and other organizations doing  
15 anti-counterfeiting and brand protection.

16 Q. How long was that session?

17 A. I don't remember exactly, but it probably  
18 would have been one to two hours.

19 Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Q.

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Q. What did you discuss at that meeting --

18

well, actually, withdraw.

19

What was the purpose of that meeting?

20

A. So the purpose of that meeting was to

21

talk about A-CAPP Center research. This is a type

22

of meeting that we hold often with different

23

organizations to talk about our research and our

24

research capacity and capability to do different

25

projects.

1 appropriately.

2 Q. Do you recall what they were interested  
3 in?

4 A. Again, there was a lot of interest about  
5 the A-CAPP Center, which is pretty common. Some  
6 organizations know about us, some don't. And then  
7 just general trends about counterfeiting which,  
8 again, is a pretty standard request.

9 Q. To date, do you know how many hours you  
10 have billed Nike for your work as an expert witness  
11 on this case?

12 A. I don't know off the top of my head, but  
13 I want to say maybe between like 60 and 80.

14 Q. Have you been paid -- do you know how  
15 much you have been paid to date for your work?

16 A. I don't know the exact amount but I'm  
17 guessing it's probably around 50,000, \$60,000.

18 Q. Are you acting as an expert witness in  
19 your personal capacity or on behalf of A-CAPP?

20 A. So I'm acting as an expert witness based  
21 on my position at A-CAPP, but not as -- not as a  
22 representative of A-CAPP or Michigan State  
23 University.

24 Q. So you're being paid personally. The  
25 \$50,000 is going directly to you, correct?

1       that?

2           A.       So I was part of the A-CAPP Center's  
3       initial team that led our first -- the first and the  
4       only educational program in brand protection and  
5       anti-counterfeiting in the US as well as the world  
6       because there are no formal education programs  
7       within universities. So we put that together  
8       including structures on how to build a brand  
9       protection team, and from that we have received many  
10      inquiries.

11                       Since I have been with the center  
12      over eight years, we receive phone calls on a weekly  
13      basis from brands throughout the US as well as the  
14      world. I believe I have worked with over  
15      500 organizations, I think about 200 of them have  
16      been brands, talking about their brand protection  
17      teams in various stages from non-existent to some  
18      that are fully performed.

19           Q.       So the education program that you just  
20      referenced that you put -- that you were part of the  
21      team that created that, what's that called?

22           A.       That's called the A-CAPP Center's Brand  
23      Protection Professional Certificate.

24           Q.       What exactly is the A-CAPP Center's Brand  
25      Protection Professional Certificate?



1           A.       It's 17 online courses that are designed  
2       to give A to Z brand protection basics. So it is  
3       not comprehensive of everything, but we have  
4       received many inquiries over the years about people  
5       that have never heard of about brand protection or  
6       anti-counterfeiting. And initially we used to  
7       consult with all of them on the phone, and we  
8       decided to create this to give a baseline so that  
9       people could take the course, and understand it.

10                       And it was initially designed for  
11       brands, but over the years we have seen everyone  
12       from vendors taking it to law firms to others who  
13       are seeking to learn more about the phenomenon of  
14       the trademark counterfeiting.

15           Q.       What was your role in creating that  
16       program?

17           A.       So it was part of one of my very first  
18       tasks at the Center when I was initially an outreach  
19       specialist and then later the assistant director for  
20       education and outreach. So the project took about  
21       two and a half years, and I was the lead on it. So  
22       I was responsible for working with all the subject  
23       matter experts, for working with all of our  
24       academics, both in the Center but also throughout  
25       campus that we work with, to bring that together to

1 create this curriculum.

2 We had received many requests over  
3 the years, again because there is no degree in brand  
4 protection or anti-counterfeiting to create it, so  
5 we worked to do that. And that's something that I'm  
6 still engaged in today. So...

7 Q. When you mentioned that you've -- you  
8 said -- did you -- is your testimony that you have  
9 talked to 200 brands about their brand protection  
10 programs? What exactly -- I want to clarify what  
11 you said so I understand it.

12 A. Sure.

13 So I have been engaged in some way  
14 with over 200 brands on issues of brand protection  
15 and anti-counterfeiting. Not all of them have been  
16 about brand protection teams exactly or brand  
17 protection programs, but it would have been about  
18 something to do with anti-counterfeiting or brand  
19 protection.

20 Q. Do you ever speak to brands specifically  
21 about their brand protection program and offer  
22 advice on their brand protection program?

23 A. So, in response to the first part of your  
24 question, yes, I speak to brands about their brand  
25 protection programs. So oftentimes we will refer

1       them to our best practices, and talk about proactive  
2       and reactive approaches, how important those are.  
3       Sometimes they will share with us information about  
4       their programs; sometimes they won't, they'll just  
5       ask questions, depending on what that is.

6                       In the past before I became director,  
7       the prior directors would often consult, at no  
8       charge often, for some of these brands to sort of  
9       walk them through what they -- what were considered  
10      best practices based on our research.

11             Q.       It sounds like it's essentially teaching  
12      these brands about what the best practices are that  
13      they should implement.

14                     Is that an accurate statement?

15             A.       Yes, that's correct. And we also tell  
16      brands that they are the only ones that can  
17      determine what exactly is the best brand protection  
18      program for themselves, given their business models,  
19      their product lines, where they're selling their  
20      products. There's many, many factors that go into  
21      what that might look like at a given company or  
22      even, you know, with different products.

23             Q.       When you say you have consulted on the  
24      design of brand protection programs or  
25      anti-counterfeiting programs, is this what you're

1       referring to, or is that -- is it something else  
2       that you are referring to?

3             A.       Yes, that's what I'm referring to.

4             Q.       Okay. Is it ever a situation, I'm not  
5       sure if we've covered this, where a brand will come  
6       to you and say "This is what we're doing. Is this  
7       what we should be doing?" Is a conversation like  
8       that typical?

9             MS. DUVDEVANI: Objection.

10       BY THE WITNESS:

11            A.       Occasionally that has happened.

12            Q.       Can you name any brands where that has  
13       happened?

14            A.       No, we usually don't discuss which brands  
15       we speak to. In a lot of cases, we also sign NDAs  
16       if we're going to be discussing specifically about a  
17       certain brand protection program with a brand.

18            Q.       How many NDAs have you signed in that  
19       context?

20            A.       I don't know the number off the top of my  
21       head.

22            Q.       Okay. Any estimate?

23            A.       Probably somewhere between 15 and 20.

24            Q.       Of those 15 and 20, are all those  
25       conversations you were personally involved in or

1 someone at the A-CAPP Center was involved in?

2 A. I would have been involved in those  
3 specific ones in one way or the other.

4 Q. Okay. What do you mean by that?

5 A. It might have been when I was an outreach  
6 specialist. It might have been when I was the  
7 assistant director of education and outreach. Or it  
8 might have been as recently as when I'm director.

9 Q. Did your role change depending on what --  
10 withdraw that.

11 Did your involvement change depending  
12 on what your title and position was at the time?

13 A. Yes.

14 Q. Okay. Why don't you tell me a little bit  
15 about your work.

16 So you joined the A-CAPP Center in  
17 2015, I believe?

18 A. Yes, that's correct.

19 Q. That's when you were an outreach  
20 specialist?

21 A. That's correct.

22 Q. Did you have any counterfeiting  
23 experience before that time?

24 A. Some. It had been limited to personal  
25 experience. But I had seen through my other -- my

1 A. No.

2 Q. Have you learned any other thing about  
3 sneakerheads at any point during your work?

4 A. During my work at the Center?

5 Q. Sure.

6 A. No.

7 Q. How about other than at your work at the  
8 Center?

9 A. Only from the materials I reviewed.

10 Q. In the context of this case?

11 A. Yes.

12 Q. Okay. Have you ever studied advertising  
13 or marketing?

14 A. I have not, no.

15 Q. So you are not an expert in advertising  
16 or marketing, correct?

17 A. That's correct.

18 Q. Have you ever conducted a consumer  
19 perception survey?

20 A. I have not, but my research team, as I  
21 mentioned before, is conducting one as we speak.

22 Q. Other than that, do you have any  
23 experience with conducting a consumer perception  
24 survey?

25 A. No.

1           Q.     Are you an expert in consumer perception  
2 surveys?

3           A.     No.

4           Q.     Have you ever conducted any consumer  
5 research at all?

6           A.     No.

7           Q.     Are you an expert in conducting consumer  
8 research?

9           A.     No.

10          Q.     Okay. We went over the publications  
11 listed on the fourth page of your CV. Does that  
12 list all of your publications?

13          A.     There are some on Page 5 as well that  
14 goes onto the back side, and to the best of my  
15 recollection, yes, they're all here.

16          Q.     Okay. And does your CV accurately list  
17 all of the courses you have taught and your  
18 presentations and interviews other than, of course,  
19 the one that the June presentation you mentioned  
20 earlier?

21          A.     To the best of my recollection, yes, my  
22 goal is to get all of them on here.

23          Q.     Have you ever taught any classes  
24 specifically on counterfeiting in the footwear  
25 industry?

1 rebuttal report, which is any of these items that  
2 were suspected to be potentially counterfeit by the  
3 consumers they were told that these are  
4 imperfections that must have been by Nike's  
5 manufacturing team, even though they have no  
6 evidence of what Nike's manufacturing processes are  
7 or any quality issues around that, which means that  
8 the consumers are left thinking that Nike has a  
9 quality issue when, in fact, it's most likely a  
10 potential counterfeit.

11 Q. Did you investigate whether StockX has  
12 ever suspended sellers from its platform?

13 A. I did not do a separate investigation of  
14 that.

15 Q. Okay. You testified earlier that you're  
16 not a consumer perception expert, correct?

17 A. I am not.

18 Q. Do you have any experience analyzing what  
19 messages consumers might takeaway from specific  
20 language on websites?

21 A. I don't, but my colleagues at A-CAPP  
22 Center do specialize in that.

23 Q. Did you conduct any study in this case of  
24 what messages, if any, consumers took away from the  
25 language on StockX's website?



1 A. I was not asked to.

2 Q. Are you aware of any study that Nike  
3 conducted regarding what messages, if any, consumers  
4 took away from the language on StockX's website?

5 A. I'm not aware of any.

6 Q. When did you first learn of StockX?

7 A. The company in general?

8 Q. Yeah.

9 A. Probably a few years ago.

10 Q. Did you ever study or analyze StockX  
11 before this case came up?

12 A. No.

13 Q. Prior to your work on this case, did you  
14 ever look at the anti-counterfeiting efforts or the  
15 brand protection efforts that StockX takes?

16 A. No. And I don't recall ever seeing them  
17 at any of the conferences where e-commerce platforms  
18 are most likely talking about that. So and no, I  
19 did not.

20 Q. What did you know about StockX prior to  
21 this case?

22 A. So I knew that they sold essentially  
23 high-end sneakers and that was mostly from, as I  
24 mentioned, one of our former students, who was very  
25 interested in that.